



INDIANA DEPARTMENT OF TRANSPORTATION

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MITCHELL E. DANIELS, JR., Governor
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Writer's Direct Line

To our INDOT Partners,

Over the next 10 years, Indiana will experience a road construction boom the likes of which has never been seen in our state. During its 2006 session, the Indiana General Assembly approved the use of Public-Private Partnerships (P3) under Indiana Code 8-15.7. This action places Indiana on the leading edge of the emerging P3 industry in the United States. However, with such opportunity comes the duty to ensure integrity, fair competition, and public responsibility in the process.

INDOT has created a draft Conflict of Interest Policy for our newly created P3 Division. This document, when finalized, will provide guidance to consultants interested in participating in INDOT P3 projects. The policy defines relationships which would create conflicts of interest that would disqualify future business opportunity in certain circumstances. The policy would only apply to business relationships occurring for opportunities in P3 projects and not to traditional INDOT road construction and consulting work.

This document is currently in draft form. INDOT welcomes your input on its contents and issues which need to be included. Please send comments to:

Ryan A. Hoff
Legal Director, P3 Division
100 N. Senate Ave, Rm. N750
Indianapolis, IN 46204

Please return your comments by September 13, 2006. I look forward to working with you to make Indiana's P3 program a model which will make our state a national leader in transportation infrastructure development.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Gustin".

Joe Gustin
Deputy Commissioner
Division of Public Private Partnerships

INDIANA DEPARTMENT OF TRANSPORTATION

PUBLIC PRIVATE PARTNERSHIP (P3) CONFLICT OF INTEREST GUIDELINES

I. Introduction

In order to provide guidance to potential Consultants (as defined below) participating in the Indiana Department of Transportation ("INDOT") Public Private Partnership Program ("P3 Program"), Indiana Code Title 8, Article 15.7, INDOT has developed these guidelines concerning actual or potential conflicts of interest ("Guidelines") in connection with a P3 Program project as defined in IC 8-15.7-2-14 ("Project").

These guidelines are intended to accomplish the following goals:

- A. Promote the integrity, competitiveness and fairness of the P3 Program and INDOT's P3 procurement processes;
- B. Prevent P3 proposers and Consultants from obtaining or appearing to obtain an unfair competitive advantage;
- C. Provide guidance to enable Consultants to make informed business decisions concerning participation in the P3 Program;
- D. Permit Consultants to compete fairly to either work for INDOT or as part of a P3 Program proposer;
- E. Protect INDOT's interests, especially confidential and sensitive Project-specific and programmatic information;
- F. Permit Consultants to work without actual or apparent conflict of interest; and
- G. Ensure that there is sufficient Consultant talent available for both INDOT and potential P3 Program proposers to successfully implement the P3 Program.

In general, INDOT prefers that the Consultants engaged by INDOT in connection with a P3 Project are dedicated to providing their services to INDOT. Except in limited circumstances, as described in these Guidelines, Consultants may not participate on a P3 proposer team on any P3 Project in which they are currently performing or have performed services to INDOT. A Consultant's participation on P3 Program proposer teams or in performing work for INDOT on future Projects will generally be permitted unless INDOT determines, in its sole discretion, that such participation raises an actual or potential conflict of interest, as set forth in these Guidelines.

INDOT recognizes that, given the complexity of the P3 Program, there will be situations in which there is a potential or actual conflict of interest but the strict application of these Guidelines may not further the goals set forth above or that there will be tension between some of such goals. The factors INDOT may examine in relation to a Consultant's potential or actual conflict of interest and their eligibility to perform services for INDOT or as part of a P3 Program proposer include:

- A. Type of consulting services required;
- B. Particular circumstances of the Project;
- C. INDOT's need for specialized expertise to implement a Project;
- D. INDOT's past, present, or future working relationship with the Consultant;
- E. Time frame between the potential or actual conflict of interest situation and the Project; and
- F. Other factors deemed relevant by INDOT.

INDOT also recognizes that any conflict of interest issue must be balanced with the necessity to ensure that an adequate number of Consultants are available not only to INDOT for its P3 Program, but also to P3 proposer teams on a Project.

These Guidelines do not attempt to address every conflict situation that may arise in the context of the P3 Program. These Guidelines do not mandate INDOT to make a particular decision or determination when facts similar to those given as examples in these Guidelines occur during a Project. INDOT has the authority, in its sole discretion, to determine on a case-by-case basis whether a material conflict of interest exists, what are the best interests of INDOT, the specific Project and the P3 Program generally, and what actions may be appropriate.

II. Federal Legislation

For federal-aid P3 projects, INDOT must comply with the Federal Highway Administration's ("FHWA") organizational conflict of interest rules found at 23 CFR § 636.116 and all other applicable federal laws and regulations (e.g., National Environmental Policy Act ("NEPA") rules and regulations) (collectively, "Federal Rules"). INDOT will examine each situation to ensure compliance with the Federal Rules and will utilize the Federal Rules in examining any actual or potential issues that arise in the P3 Program. Furthermore, nothing in these Guidelines is intended to limit, modify, supersede or otherwise alter the effect of the Federal Rules.

III. Other Regulations, Statutes and Rules

These Guidelines are not intended to limit, modify, supersede, or otherwise alter the applicability or effect of other relevant Indiana, or local regulations, statutes and rules (e.g., ethical rules pertaining to Legal Services (as defined below), and state laws concerning state employee and consultant ethics.)

IV. Definitions

- A. "Affiliate" means any entity which directly or indirectly controls, or is controlled by, or is under common control, with the business entity.
- B. "Conflict of Interest" means an actual or potential circumstance arising out of a Consultant's existing or past activities, business interests, contractual relationships and/or organizational structure (i.e., parent entities, subsidiaries, Affiliates, etc.) wherein

1. the Consultant is, or may be, unable to render impartial assistance and/or advice to INDOT;
 2. the Consultant's objectivity is, or may be, impaired in performing the scope of work INDOT desires;
 3. the Consultant has an unfair competitive advantage;
 4. the Consultant's services to INDOT may create or actually creates an unfair competitive advantage to a third party; or
 5. there is a perception or appearance of impropriety and/or unfair competitive advantage benefiting the Consultant or a third party as a result of Consultant's participation in a Project.
- C. "Consultant" means any person or business entity (including any division of such entity and any Affiliate of such entity) retained by INDOT to provide professional consulting services including, without limitation, architectural and engineering, right-of-way acquisition, environmental, procurement assistance, traffic and revenue projections, project oversight services, financial services (including financial advisory and banking services), and legal services in connection with a Project, including subconsultants.
- D. "Financial or Other Interest" means any known benefit other than enhancement of professional reputation, and includes a promise of future work on a Project as well as any indirect benefit of which a Consultant is aware.
- E. "Operator" means a person or business entity that has entered into a Public-Private Agreement with INDOT for the development, design, construction, operation, maintenance, planning and/or financing of a Project.
- F. "Subconsultant" includes those that have performed or will perform work on behalf of a Consultant to INDOT in the performance of the consultant's work for INDOT.
- G. "Proposer" means any person or business entity (including any division of such entity and any Affiliate of such entity) that submits a statement of qualifications, solicited proposal, unsolicited proposal, or other submission in order to participate in the Project for the development, design, construction, financing, operation and/or maintenance of a Project.

Capitalized terms that are not defined in these Guidelines shall have the meanings provided in either the Federal Rules, or Indiana Code 8-15.7-2.

V. Scope of Guidelines

With these guidelines, INDOT addresses eight categories of Consultant services that may be utilized in the context of a Project:

- A. Preliminary engineering and architectural services ("PE Services");

- B. Procurement services ("Procurement Services");
- C. Environmental and planning services ("E&P Services");
- D. Traffic and revenue services ("T&R Services");
- E. Project oversight services ("PO Services");
- F. Financial services ("Financial Services");
- G. Legal services ("Legal Services"); and
- H. Other consulting services ("Other Services").

The foregoing enumerated services are collectively the "Services." Because of the different considerations and concerns applicable to each of these categories of services, separate guidelines are appropriate. If a Consultant is providing more than one category of Services to INDOT, and there are differences in the standards, restrictions and limitations applicable to those categories, INDOT may, in its sole discretion, apply the more stringent standards, restrictions and limitations.

VI. Application of Guidelines to Individuals Employed by the Consultant

If, in INDOT's determination, the performance of the Services described in these Guidelines, raises a potential or actual Conflict of Interest for a Consultant, such Conflict of Interest shall apply individually and independently to any employee of such Consultant that has participated in a material way in the performance of the Services on a specific Project. If such individual leaves the Consultant's employment, the potential or actual Conflict of Interest shall continue to apply to such individual in the same manner as it applies to the Consultant (e.g., for a period of one (1) year from the termination of the individual's services to INDOT) for Projects other than those in which the individual was materially involved while employed by Consultant.

The potential or actual Conflict of Interest and prohibition with respect to the individual employee will not apply to the individual's new employer. In such an instance, if the new employer is otherwise eligible to perform certain Consultant services under these Guidelines, such new employer will remain eligible despite the employment of such individual, provided that, the employee will be subject to the limitations described in Article VI.

VII. Time Period in which a Potential or Actual Conflict of Interest Applies.

If, in INDOT's determination, the performance of the Consultant services described in Article VIII below raises a potential or actual Conflict of Interest, such Conflict of Interest shall be deemed to exist for the firm for a period of one (1) year and, for the individuals performing such work, for a period of one (1) year, whether or not such individual remains employed with the firm at which the individual was employed when the potential Conflict of Interest occurred. Following the expiration of the applicable period, the restrictions on eligibility set forth in the applicable subsections of Article VIII below shall no longer apply

absent a determination by INDOT, in its discretion, that the potential or actual Conflict of Interest remains applicable.

VIII. Conflict of Interest Rules

A. Preliminary Engineering and Architectural Services

1. PE Services consist of some or all of the following services provided to INDOT with respect to a Project:
 - a. preparation of preliminary design and architectural documents and reports that will be incorporated by others into P3 solicitation documents (e.g., Request for Qualifications or Request for Proposals);
 - b. utility and right-of-way mapping and provision of similar technical documents that will be incorporated by others into P3 solicitation documents.
2. PE Services do not include (i) evaluation or selection of alignments in connection with the development of NEPA documents, (ii) assistance with development of solicitation documents, Operator scope of work/technical provisions, evaluation criteria for a Project or (iii) other items that would fall under the E&P Services or Procurement Services.
3. A Consultant actively engaged in providing PE Services or which has previously provided PE Services to INDOT with respect to a Project, may be a Proposer or participate as an equity owner, team member, consultant or subconsultant of, or to, a Proposer or have a Financial or Other Interest in any of the foregoing entities with respect to that Project provided that INDOT is satisfied that
 - a. the Consultant will not, or in the case of past performance of PE Services, did not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement for that Project;
 - b. the data and information provided to the Consultant in the performance of the PE Services is either irrelevant to the procurement for the Project or available on an equal and timely basis to all Proposers; and
 - c. the work products from the Consultant incorporated into or relevant to the procurement for that Project are available on an equal and timely basis to all Proposers.
4. Consultants performing PE Services for INDOT on a Project may participate in a different Project as a Proposer or participating as an equity owner, team member, consultant or subconsultant of, or to, a Proposer for the Project or have a Financial or Other Interest in any of the foregoing entities with respect

to that Project. However, INDOT reserves the right to restrict the ability of a Consultant to participate in different Projects if in INDOT's judgment, the Consultant has, in the course of performing the PE Services for INDOT, obtained access to or the ability to gain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement of the other Project or otherwise has a Conflict of Interest.

5. A Consultant participating with respect to a Project as a Proposer or Operator or as an equity owner, team member, consultant or subconsultant of or to a Proposer or Operator or having a Financial or Other Interest in any of the foregoing entities, is eligible to pursue PE Services work from INDOT for a different Project (provided that, once such Consultant is retained to perform PE Services for INDOT, Section A.2 above shall apply).

B. Procurement Services

1. Procurement Services consist of some or all of the following services provided to INDOT with respect to a Project:
 - a. the development of procurement strategy;
 - b. development and preparation of the solicitation documents, Operator scope of work/technical provisions and/or Public-Private Agreements;
 - c. implementation and administration of the solicitation;
 - d. preparation and/or implementation of any evaluation criteria, process or procedures;
 - e. evaluation of Proposer submission (e.g., qualification submittals, proposals, etc);
 - f. negotiation of the Public-Private Agreement; and/or
 - g. such other activities determined by INDOT as related to a P3 procurement.
2. A Consultant actively engaged and providing Procurement Services to INDOT for a Project may not participate as an equity owner, team member, subconsultant or consultant of or to a Proposer, on any Project arising during the term of the Consultant's engagement with INDOT or have a Financial or Other Interest in any of the foregoing entities on any Project.
3. A Consultant that performed Procurement Services on behalf of INDOT for a Project and completed such services may be a Proposer or participate as an equity owner, team member, subconsultant or consultant of, or to, a Proposer on a different Project or have a Financial or Other Interest in any of the foregoing entities with respect to a different Project, provided that INDOT is satisfied that (i) the Consultant did not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage to the Consultant or a Proposer

with respect to the different Project; and (ii) the data and information provided to the Consultant in the performance of the Procurement Services was either irrelevant to the procurement for the other Project or available on an equal and timely basis to all Proposers on that Project. In such instances where INDOT is satisfied in the manner described above, INDOT may still, in its discretion, restrict the scope of Procurement Services for which the Consultant may be eligible to perform in order to further the intent and goals of these Guidelines.

4. A Consultant participating in a Project as a Proposer or as an equity owner, team member, consultant or subconsultant of or to a Proposer or having a Financial or Other Interest in any of the foregoing entities, may not perform Procurement Services for INDOT for another Project at the same time. To the extent that INDOT seeks to retain a Consultant to perform a scope of work that includes both Procurement Services and other work described in these Guidelines (such as PE Services), the Consultant is not generally eligible for the work.
5. A Consultant participating as an Operator or as part of a Operator team for a Project is eligible, after the completion of the procurement for such Project, to perform Procurement Services for INDOT for another Project (provided that once such Consultant is retained to perform Procurement Services for INDOT, Sections B(2) and B(3) above shall apply).

C. Environmental and Planning Services

1. E&P Services consist of some of or all of the following services provided to INDOT with respect to a Project:
 - a. the study and evaluation of alternatives and potential environmental impacts of the proposed Project;
 - b. preparation of environmental analysis and impact documents relating to the project, including facility and corridor analysis and draft and final environmental impact statements;
 - c. planning associated with the NEPA approval, permitting and clearance process for the project; and
 - d. planning associated with other (non-NEPA) environmental approvals, permitting and clearance for the project.
2. A Consultant actively engaged and providing E&P Services described in Section C(1)(a-c) above, with respect to a Project may not (i) participate as an equity owner, team member, consultant or subconsultant of or to a Proposer for the Project or have a Financial or Other Interest in any of the foregoing entities with respect to that Project, or (ii) have a Financial or Other Interest in the Project at the time that the Consultant is providing the services identified in Section C(1)(a-c).

3. A Consultant actively engaged and providing E&P Services described in Section C(1)(d) above with respect to a Project may be a Proposer or participate as an equity owner, team member, consultant or subconsultant of or to a Proposer for the Project or have a Financial or Other Interest in any of the foregoing entities with respect to that Project, provided that INDOT is satisfied that (i) the Consultant will not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement for the Project; (ii) the data and information provided to the Consultant in the performance of the E&P Services is either irrelevant to the procurement for that Project or available on an equal and timely basis to all Proposers; and (iii) the work products from the Consultant incorporated into or relevant to the procurement for that Project are available on an equal and timely basis to all Proposers.
4. A Consultant previously engaged to provide E&P Services to INDOT for a Project and which has completed such E&P Services may be a Proposer or participate as an equity owner of, team member of or consultant or subconsultant to a Proposer for that Project or have a Financial or Other Interest in any of the foregoing entities provided that FHWA has issued a Record of Decision (ROD), a Categorical Exclusion (CE) or a Finding of No Significant Impact (FONSI) for the Project ; and that INDOT is satisfied that (i) the Consultant did not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement for that Project; (ii) the data and information provided to the Consultant in the performance of the E&P Services is either irrelevant to the procurement for the Project or available on an equal and timely basis to all Proposers; and (iii) the work products from the Consultant incorporated into or relevant to the procurement for that Project are available on an equal and timely basis to all Proposers.
5. A Consultant performing E&P Services on behalf of INDOT for a Project may participate in a different Project as a Proposer or participating as an equity owner, team member, consultant or subconsultant of or to a Proposer for a different Project or having a Financial or Other Interest in any of the foregoing entities with respect to that different Project. However, INDOT reserves the right to restrict the ability of a Consultant to participate in such manner on a different Project if, in INDOT's judgment, the Consultant has, in the course of performing E&P Services for INDOT, obtained access to or knowledge of confidential or sensitive information, procedures, policies and processes that could provide for an unfair competitive advantage with respect to the procurement of that different Project or otherwise has a Conflict of Interest

6. A Consultant participating with respect to a Project as a Proposer or Operator or as an equity owner, team member, consultant or subconsultant of or to a Proposer or Operator or having a Financial or Other Interest in any of the foregoing entities, is eligible to pursue E&P Services work from INDOT for another Project (provided that, once such Consultant is retained to perform E&P Services for INDOT, Sections C(2) and C(3) above shall apply).

D. Traffic and Revenue Services

1. Traffic and Revenue (T&R) Services consist of some or all of the following services provided to INDOT:
 - a. conducting draft and investment grade traffic and revenue studies, toll elasticity studies, toll feasibility studies, toll pricing studies, origin and destination surveys and studies and/or studies or analyses of a similar nature, including "peer review" studies; and/or
 - b. data mining and preparation of reports, analyses and projections in connection with the traffic and projected revenues.
2. A Consultant actively engaged and providing T&R Services to INDOT may not participate as an equity owner, team member, subconsultant or consultant of or to a Proposer for that Project or have a Financial or Other Interest in any of the foregoing entities with respect to that Project.
3. A Consultant previously engaged to provide T&R Services to INDOT with respect to a Project and which has completed such services may be a Proposer or participate as an equity owner, team member, consultant or subconsultant of, or to, a Proposer for the Project provided that INDOT is satisfied that (i) the Consultant did not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement for that Project; (ii) the data and information provided to the Consultant in the performance of the T&R Services is either irrelevant to the procurement for that Project or available on an equal and timely basis to all proposers; (iii) the work products from the Consultant incorporated into or relevant to the procurement for that Project are available on an equal and timely basis to all Proposers; and (iv) there will be no impact on that Project's plan of finance, including the ability to obtain and close funding and potential sources of funding.
4. Consultants performing T&R Services may participate on a different Project as a Proposer, or participate as an equity owner, team member, consultant or subconsultant of or to a Proposer for the different Project, or have a Financial or Other Interest in any of the foregoing entities with respect to that different Project. However, INDOT reserves the right to restrict the ability of a Consultant to participate in such manner on a different Project if, in INDOT's judgment, the Consultant has, in the course of performing the T&R Services

for INDOT, obtained access to or knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement of that different Project or otherwise has a Conflict of Interest.

5. A Consultant participating with respect to a Project as a Proposer or Operator or as an equity owner, team member, consultant or subconsultant of or to a Proposer or Operator or having Financial or Other Interest in any of the foregoing entities, is eligible to pursue T&R Services work from INDOT for another Project (provided that, once such Consultant is retained to perform T&R Services for INDOT, Section D(2) above shall apply).

E. Financial Services

1. Financial Services consist of some or all of the following services:
 - a. acting in the capacity of financial advisor to INDOT ("FA") by providing advice on finance-related issues, including development of short-term or long-term finance strategy and plans of finance for a Project, and the development of financial aspects of the solicitation documents and Public-Private Agreement;
 - b. identifying and pursuing sources of funds; or
 - c. acting as underwriter (either lead or co-lead) for a revenue bond issuance, a TIFIA instrument or a private activity bond issuance on a Project, but excluding underwriters for bonds that are not related to any Project.
2. A Consultant actively engaged and providing Financial Services to INDOT for a Project may not participate as an equity owner, team member, financial consultant, subconsultant or banker for a Proposer, on any Project arising during the term of the Consultant's engagement with INDOT or have a Financial or Other Interest in any of the foregoing entities with respect to any Project.
3. A Consultant previously engaged to provide Financial Services to INDOT on a Project and which has completed such services may be a Proposer or may participate as an equity owner, team member, consultant or subconsultant of or to a Proposer for another Project, or have a Financial or Other Interest in any of the foregoing entities with respect to such other Project, provided that INDOT is satisfied (i) the Consultant did not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement for that Project; (ii) the data and information provided to the Consultant in the performance of the Financial Services is either irrelevant to the procurement for that Project or available on an equal and timely basis to all Proposers; (iii) the work products from the Consultant incorporated into or

relevant to the procurement for that Project are available on an equal and timely basis to all Proposers.

4. Generally, Consultants participating with respect to a Project as a Proposer or Operator or as an equity owner, team member financial consultant/advisor/banker, consultant or subconsultant of or to a Proposer or Operator or having a Financial or Other Interest in any of the foregoing entities, shall be eligible to pursue Financial Services from INDOT for a different Project (provided that once such Consultant is retained to perform Financial Services for INDOT, Section E(2) and E(3) above shall apply).

F. Project Oversight Services

1. Project Oversight (PO) Services consist of some or all of the following services:
 - a. design review;
 - b. construction oversight and inspections;
 - c. quality control and quality assurance;
 - d. project management and overview;
 - e. contract administration;
 - f. claims management;
 - g. public relations and community outreach;
 - h. right-of-way acquisition services; and/or
 - i. appraisal, legal description, condemnation package and/or utility assembly review
2. A Consultant shall be not eligible to perform PO Services on behalf of INDOT for a Project in which the Consultant is acting as the Operator or is part of a Operator team, or has a Financial or Other Interest in any of the foregoing entities with respect to that Project.
3. Generally, a Consultant performing PO Services on behalf of INDOT may participate on a different Project as a Proposer or participating as an equity owner, team member, consultant or subconsultant of or to a Proposer for the different Project or having a Financial or Other Interest in any of the foregoing entities with respect to that different Project. However, INDOT reserves the right to restrict the ability of a Consultant to participate in such manner on a different Project if, in INDOT's judgment, the Consultant has, in the course of performing the PO Services for INDOT, obtained access to confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement of that different Project or otherwise has a Conflict of Interest.
4. Generally, a Consultant participating with respect to a Project as a Proposer or Operator or as an equity owner, team member, consultant or subconsultant of or to a Proposer or Operator or having a Financial or Other Interest in any of

the foregoing entities is eligible to pursue PO Services work from INDOT for a different Project (provided that, once such Consultant is retained to perform PO Services for INDOT, Section F(2) above shall apply).

G. Legal Services

1. Legal Services consist of some or all of the following services:
 - a. providing advice on legal issues and strategies relating to project environmental approvals, planning, procurement, financing, contract administration, risk management and disputes/claims/litigation; and
 - b. reviewing, drafting and negotiating procurement documents, project contracts and other documents.
2. A Consultant who is providing or has provided Legal Services to INDOT with respect to a Project may not provide Legal Services for a Proposer, an equity owner, team member, consultant or subconsultant of or to a Proposer for that Project, or have a Financial or Other Interest in any of the foregoing entities with respect to that Project.
3. A Consultant that was previously engaged to provide Legal Services to INDOT with respect to a Project and completed such services may be a Proposer or participate as an equity owner, team member, legal advisor, subconsultant or consultant of or to a Proposer on a different Project, or have a Financial or Other Interest in any of the foregoing entities with respect to a different Project, provided that INDOT is satisfied that (1) the Consultant did not have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage to the Consultant or a Proposer with respect to the different Project; and (2) the data and information provided to the Consultant in the performance of the Legal Services is either irrelevant to the procurement for the other Project or available on an equal and timely basis to all Proposers on that Project. In such instances where INDOT is satisfied in the manner described above, INDOT may still, in its discretion, restrict the scope of Legal Services for which the Consultant shall be eligible to perform in order to further the intent and goals of these Guidelines.
4. Generally, a Consultant participating with respect to a Project as a Proposer or as an equity owner, team member, legal advisor, consultant or subconsultant of or to a Proposer or having a Financial or Other Interest in any of the foregoing entities, is not eligible to be hired to perform Legal Services for INDOT for another Project at the same time. However, once the procurement process is completed for the Project in which the Consultant is participating as a Proposer or as an equity owner, team member, legal advisor, consultant or subconsultant of or to a Proposer or a Potentially Adverse Agency, the Consultant will be eligible to be retained by INDOT to perform Legal

Services for a different Project (provided that, once such Consultant is retained to perform Legal Services for INDOT, Sections G(2) and G(3) above shall apply).

H. Other Services

Professional engineering, financial, legal and consulting services utilized from time to time by INDOT with respect to a Project that do not fall within any of the categories described above will be analyzed by INDOT on a case-by-case basis, applying the principles and goals set forth in these Guidelines.